

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION

RICHARD F. BROWN,

Plaintiff,

v.

CORIZON INC., et al.,

Defendants.

No. 2:22 CV 52 DDN

**MEMORANDUM AND ORDER**

Now before the Court are two motions from self-represented Plaintiff Richard F. Brown. Plaintiff seeks to withdraw his previously granted Motion for Leave to File an Amended Complaint (ECF No. 8) in this matter. ECF No. 11. He also notifies the Court that he has been released from confinement and asks the Court: (1) “to consider [his] request for in forma pauperis;” (2) “to renew ... [his] request for appointment of counsel;” and (3) for “a few days to pay the \$21.60<sup>1</sup> partial filing fee.” ECF No. 12.

On September 28, 2022, the Court issued an order granting Plaintiff’s Motion to Proceed *In Forma Pauperis* (ECF No. 2), assessing an initial partial filing fee of \$21.70, and granting Plaintiff’s Motion for Leave to File an Amended Complaint (ECF No. 8). *See* ECF No. 9. It seems that the easiest way to grant the relief requested by Plaintiff in his current motions before the Court is to reverse the relief granted by the Court in its September 28, 2022 Order. As such, the Court will strike its September 28, 2022 Order from the record. Upon striking this Order, Plaintiff’s Motion to Proceed *In Forma Pauperis* (ECF No. 2) and Motion for Leave to File an Amended Complaint (ECF No. 8) will again be pending before the Court.

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<sup>1</sup> The Court construes this as a typo because the Court assessed an initial partial filing fee of \$21.70 in its September 28, 2022 Order – not \$21.60. *See* ECF No. 9.

**Motion to Proceed *In Forma Pauperis* (ECF No. 2)**

Plaintiff was a prisoner when he filed his Complaint and Motion to Proceed *In Forma Pauperis* on August 18, 2022. See ECF Nos. 1-2. However, in Plaintiff's letter dated October 26, 2022, he informed the Court that he has been released from prison. ECF No. 12 at 1. He also asked the Court "to consider [his] request for in forma pauperis," stating that he is unemployed, disabled, and he has no income or available money. As Plaintiff is a released prisoner, his financial situation is no longer accurately represented by his initial Motion to Proceed *In Forma Pauperis* and the prison inmate account statement which he filed with the Court. See ECF Nos. 2-3; see also 28 U.S.C. § 1915(b)(1) (which directs the Court to collect partial payments of the filing fee from prisoners granted *in forma pauperis* status, but not from non-prisoners). As a result, the Court will deny Plaintiff's Motion to Proceed *In Forma Pauperis* (which is now pending again before the Court) and order Plaintiff to submit a new motion describing his current financial situation. The Court will direct the Clerk of Court to mail to Plaintiff the relevant court form. Plaintiff will have **thirty (30) days** from the date of this Order to either file a new motion to proceed *in forma pauperis* or to pay the full filing fee in this matter. If the Court receives a new motion with financial information, it will reconsider granting Plaintiff *in forma pauperis* status and waiver of the filing fee.

**Motion for Leave to File an Amended Complaint (ECF No. 8) and**

**Motion to Withdraw that Motion (ECF No. 11)**

As the Plaintiff is the master of his pleadings, his Motion to Withdraw his Motion for Leave to File an Amended Complaint (which is now pending again before the Court) will be granted and his Motion for Leave to File an Amended Complaint (ECF No. 8) will be stricken from the record.

Once the Court resolves the issue of Plaintiff's *in forma pauperis* status, the sufficiency of his initially filed Complaint will be reviewed by the Court.

**Motion Seeking Various Relief (ECF No. 12) and Motion for Appointment of  
Counsel (ECF No. 4)**

In a letter dated October 26, 2022, Plaintiff notifies the Court that he has been released from confinement and he asks the Court to reconsider his *in forma pauperis* status, consider appointing him counsel, and granting him an extension of time to pay the Court-ordered initial partial filing fee. ECF No. 12. This motion will be granted in part and denied in part. As discussed above, Plaintiff's *in forma pauperis* status will be reconsidered if, and when, he files a new motion to proceed *in forma pauperis*. Plaintiff's request for an extension of time for paying his partial filing fee will be denied as moot because this fee is no longer due (since the Court's Order regarding this fee will be stricken). Plaintiff need not pay any partial filing fee at this time. Finally, the Court recognizes that Plaintiff still has a Motion for Appointment of Counsel pending before the Court. ECF No. 4. The Court will hold this Motion in abeyance and rule the Motion upon review of Plaintiff's Complaint, after Plaintiff's *in forma pauperis* status has been determined.

Accordingly,

**IT IS HEREBY ORDERED** that the Court's Memorandum and Order, dated September 28, 2022 [ECF No. 9] is ordered **STRICKEN** from the docket. As a result, Plaintiff's Motion to Proceed *In Forma Pauperis* [ECF No. 2] and Motion for Leave to File an Amended Complaint [ECF No. 8] are again pending before this Court.

**IT IS FURTHER ORDERED** that, due to a change in Plaintiff's financial status based on his release from prison, Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* [ECF No. 2] is **DENIED**.

**IT IS FURTHER ORDERED** that the Clerk of Court is directed to mail to Plaintiff a copy of the Court's form 'Application to Proceed in District Court Without Prepaying Fees or Costs.'

**IT IS FURTHER ORDERED** that Plaintiff shall either pay the \$402 filing fee or submit the 'Application to Proceed Without Prepaying Fees or Costs' within **thirty (30) days** of the date of this Order.

**IT IS FURTHER ORDERED** that Plaintiff's Motion to Withdraw his Motion for Leave to File an Amended Complaint [ECF No. 11] is **GRANTED** and Plaintiff's Motion for Leave to File an Amended Complaint [ECF No. 8] is ordered **STRICKEN** from the docket.

**IT IS FURTHER ORDERED** that Plaintiff's Motion seeking various relief [ECF No. 12] is **GRANTED in part and DENIED in part**. The Court shall reconsider Plaintiff's *in forma pauperis* status if, and when, he files a new motion to proceed *in forma pauperis*. Plaintiff's request for extension of time to pay the \$21.70 partial filing fee is denied as moot, as this fee is no longer due.

**IT IS FINALLY ORDERED** that Plaintiff's Motion for Appointment of Counsel [ECF No. 4] is **HELD in ABEYANCE**.

**Plaintiff's failure to timely comply with this Memorandum and Order shall result in the dismissal of this action, without prejudice and without further notice.**

Dated this 2<sup>nd</sup> day of November, 2022.

  
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DAVID D. NOCE  
UNITED STATES MAGISTRATE JUDGE